

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
MEDFORD DIVISION

JAMES BLACK,

Civ. No. 1:12-cv-02240-CL

Plaintiff,

ORDER

v.

STATE FARM FIRE AND CASUALTY  
COMPANY, an Illinois Corporation,

Defendant.

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CLARKE, Magistrate Judge.

This case comes before the court on Defendant's renewed Motion for Summary Judgment (#50). The facts, background, and relevant law are thoroughly discussed in the Court's previous Order (#17) denying summary judgment two years ago. For the reasons stated below, the current motion (#50) is DENIED.

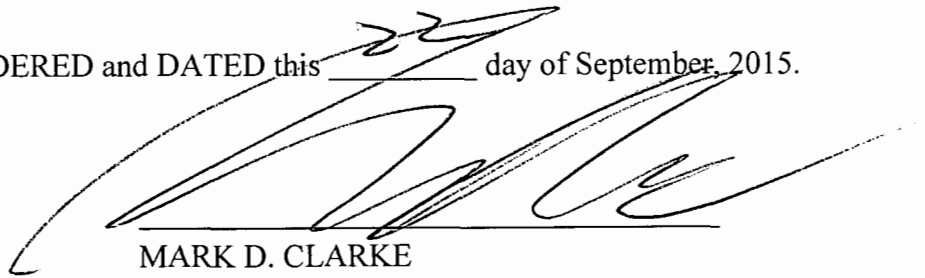
The Court has reviewed the Defendant's motion, which is submitted well after the date for dispositive motions has passed, and does not find any reason to change its decision. Defendant has not shown that the fee waivers submitted by the Plaintiff had any substantive

effect on the Defendant's rights or obligations, nor that Defendant relied on those waivers such that the Defendant's relationship with Plaintiff was impacted. The only "unfair advantage" that Plaintiff could have possibly gained from his fee waiver representations was the value of the filing fee in a case completely unrelated to the current defendant, and the only "unfair detriment" would have been against the Jackson County Circuit Court. Defendant has not shown that the Circuit Court would not have granted his fee waiver if Plaintiff had listed all the assets he now claims under the policy – thus even that "detriment" is questionable at best. Additionally, Plaintiff's insurance policy has nothing to do with any of the fee waivers submitted, and Defendant has not shown that it was harmed in any way by those representations. Therefore, the Court declines to exercise its discretion to impose judicial estoppel.

### **ORDER**

For the reasons stated above, the defendant's motion (#50) is DENIED.

It is so ORDERED and DATED this 22 day of September, 2015.



MARK D. CLARKE  
United States Magistrate Judge